

**NATIONAL SYMPOSIUM ON INDIGENT DEFENSE  
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*Competent Representation, and the Ethical Duties of Attorneys in the Criminal Justice System*

**Henderson Hill  
Ferguson Stein Chambers Gresham & Sumter, P.A.  
741 Kenilworth Ave, Suite 300  
Charlotte, NC 28204  
704-375-8461 (tel) •704-334-5654 (fax)  
www.fergusonstein.com**

**WORKING INDEX OF MATERIALS  
STATE OF GEORGIA VS. BRIAN NICHOLS**

**I. Creating the Defense Function**

- 032205 Fulton County Bench Recusal
- 040505 Letter from Mears, GPDSC, to Adams, Georgia Capital Defender
- 040505 Letter from Mears, GPDSC, to Judge Fuller
- 052405 Letter from Mears, GPDSC, to Fulton County Sheriff's Office
- 052505 District Attorney's Emergency Motion to Disqualify Capital Defender Office
- 052505 Email from Mears to GPDSC
- 052505 Transcript of Disqualification/Change in Counsel Hearing
- 070805 Letter from Mears to Judge Fuller
- 071205 Order Concerning Counsel

**II. Georgia Public Defender Standards Council v. Brian Nichols**

**After assembling a new defense team in the wake of the withdrawal of the Capital Defender's Office, the Georgia Public Defender Standards Counsel (GPDSC) began to impede the defense function with respect to adequate funding.**

- 081905 Letter from Mears to Parker
- 082205 Letter from Hill to Mears
- 090205 Ex parte motion defense funding (redacted)
- 012506 Email from Mears to Defenders & GPDSC
- 012706 Letter from Parker to Mears
- 102606 Daily Report: Costs Mounting
- 120406 Letter from Hill to Mears

**When GPDSC began to flatly deny providing funds that for reasonable and necessary services, the Court intervened and ordered both GPDSC and Fulton County to make that the funds available. Litigation ensued between Fulton County, GPDSC, and the defense team over who is responsible for certain aspects of defense funding.**

- 011207 Order ex parte matters (redacted)
- 012607 Fulton County motion for reconsideration & stay
- 020107 GPDSC motion for reconsideration
- 020707 GPDSC response to Fulton County

- 020807 Defendant response to GPDSC motion
- 020907 Defendant ex parte submission (redacted)
- 021407 Fulton County notice of appeal
- 021507 District Attorney's amicus brief re ex parte matters
- 022007 Defendant motion to strike amicus brief
- 030507 Order Fulton County motion to stay
- 030507 Order motions for reconsideration
- 030807 Fulton County notice of appeal
- 050707 Fulton County brief
- 050707 Letter from Fulton County to Supreme Court Clerk
- 050807 District Attorney's amicus brief supplement
- 050807 District Attorney's amicus brief
- 052907 GPDSC brief
- 072607 County Commissioners amicus brief
- 072607 Fulton County brief re: jurisdiction
- 080307 GPDSC brief re: jurisdiction
- 092407 GA Supreme Court: Fulton County v. The State
- 100407 GPDSC motion for reconsideration
- 101107 Bondurant amicus brief
- 101607 Fulton County response reconsideration

**GPDSC's funding shortage worsened on the eve of trial, which was scheduled to begin in March 2007.**

- 030607 Order ex parte matters (redacted)
- 031607 Letter from Hill to Judge Fuller

**After the case was continued in March 2007 due to funding shortages, GPDSC sought to reset defense team fees. During the summer of 2007, the funding crisis persisted, threatening the start of trial, which was then scheduled for October 2007.**

- 062807 GPDSC motion to reset fees
- 071907 Email from Wang to McGlasson et al.
- 073107 Defendant Motion to Enforce July 12 Order
- 082107 Email from McGlasson to Crawford
- 082307 Letter from Hill to Fuller
- 082707 Email from McGlasson to Crawford
- 083007 Letter from Chris Adams to Wilson Dubose
- 090407 Memo from Ferguson to Hill
- 091407 Executive order re: Crawford
- 091707 Defendant funding presentation (PPT)
- 091707 Exhibits from funding hearing
- 091707 Transcript funding hearing
- 092407 Defendant Memo of Law re: funding
- 100407 GPDSC motion for reconsideration
- 101007 Interim order enforce July 12 Order
- 101107 Bondurant amicus brief
- 101107 Order Fulton County payment
- 101107 Motion for Clarification

**With jury selection underway but still no funding for the defense, the Nichols defense team sought to hold GPDSC in contempt for failure to fund the defense.**

- 101607 Defendant's Motion to Show Cause
- 101607 Fulton County Response Reconsideration
- 101607 Order to Show Cause
- 101707 Fulton County notice of compliance
- 101807 Order voluntary recusal
- 102207 Order requesting judicial assignment
- 102607 Order judicial assignment
- 102907 Order inviting contempt briefs
- 103107 District Attorney's amicus brief re contempt
- 110107 GPDSC memo contempt
- 110107 Order cancelling contempt hearing
- 011808 GPDSC minutes special call meeting

**A few months after the trial was again continued due to funding shortages, GPDSC filed a motion to “reconfigure” the defense team. Soon thereafter, Judge Fuller recused himself after giving an interview to the *New Yorker* about the case. Judge James Bodiford was appointed and made it immediately clear that he would not hesitate to disband the defense team.**

- 011808 GPDSC motion to reconfigure defense team
- 030608 Order reconfiguring defense team

### **III. Attacks on Judicial Independence**

**Judge Fuller faced intense criticism from the Fulton County District Attorney's Office and the General Assembly when he refused to force defense counsel to proceed without funding.**

- 032205 Fulton County Bench recusal
- Fuller Accolades
- 121405 Disqualification Order
- 101807 Daily Report: Funding Woes Stop Trial
- 102507 Article: Panel Study & Sanctions
- 103107 AJC: Colleague Blasts Judge
- 110107 District Attorney emergency petition
- 110107 Daily Report: Enough is Enough
- 110707 Fuller letter to GA Supreme Court
- 110807 District Attorney supplemental brief
- 110807 Defendant opposition to emergency petition
- 110807 Defendant motion for leave to intervene
- 110907 District Attorney brief regarding effect on proceedings
- 110907 Defendant Response to Nov 7 Order
- 111307 Defendant supplemental opposition
- 113007 GA Supreme Court: Howard v. Fuller
- 121807 District Attorney response to Fuller order
- 012508 Letter from McGlasson to Nation
- Fuller Mounting Criticisms

#### **IV. (More) Politics of Death**

- 011007 Daily Report: State spent 36.6m
- 022707 Email from Bondurant to GPDSC et al
- 102507 Article: Panel Study & Sanctions
- 01~~08 Preston Smith GPDSC Annual Report
- 012308 Letter from Fleming to Crawford
- 022808 Order legislative ORA
- 032108 Defendant complaint re ORA
- 052008 Fleming answer

#### **V. Collateral Consequences: Donald Sanders, James Weis, and GPDSC**

**Donald Sanders, a capital defendant in Gwinnett County, Georgia, sought access to Brian Nichols' funding information as part of his own challenge to Georgia's funding scheme for capital indigent defense. The matter was litigated up to the Georgia Supreme Court. A secondary, but critically important, issue that arose was whether a trial court could hold Sanders' defense counsel in contempt for refusing to proceed in the absence of funding.**

- 012507 Sanders Motion for Payment
- 010907 Sanders Motion to Strike and Quash GA Capital System
- 020607 Daily Report: money woes
- 022107 Letter from Mears to Judge Fuller re: Sanders
- 022307 Letters from GPDSC to capital counsel re: Sanders
- 022607 Order re: disclosure of privileged documents
- 022707 GPDSC notice of filing
- 022707 GPDSC motion for reconsideration
- 030107 GPDSC motion to quash subpoenas
- 04--07 Sanders GA Supreme Court brief
- 041807 GPDSC brief
- 050307 DA Porter brief
- 062107 GPDSC supplemental brief
- 112107 GA Supreme Court: Britt v. The State, etc.

**Controversy later erupted in the case of James Ryan Weis, a capital defendant in Pike County, Georgia, when the trial judge removed court-appointed counsel because GPDSC could not fund the defense function. The Southern Center for Human Rights got involved on behalf of the defendant, and argued that the court, and GPDSC, were violating the defendant's Sixth Amendment rights by failing to fund the defense and interfering with Weis' right to counsel. The case is currently pending in the Georgia Supreme Court.**

- 112707 Judge Caldwell Order
- 031008 Christopher Adams deposition
- 031108 Jacob Sussman deposition
- 031108 Robert McGlasson deposition
- 031108 Henderson Hill deposition
- 031108 Mack Crawford deposition
- 031408 Motion to Recuse Judge Caldwell
- 090209 Weis Brief
- 092209 State Brief
- 102009 Weis Reply

- 111009 AJC: Case could decide whether Georgia can afford the death penalty
- 111609 Weis Letter Brief
- 112309 State Letter Brief
- 112509 Weis Supplemental Brief on Prejudice